

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DAVID CAPELES,

Plaintiff,

CIVIL ACTION NO. 06-13616
HON. JOHN CORBETT O'MEARA

v.

MDOC, et al.,

Defendants.

ORDER ACCEPTING MAGISTRATE JUDGE WHALEN'S
REPORT AND RECOMMENDATION

The Court having reviewed Magistrate Judge Whalen's Report and Recommendation, filed August 28, 2007, as well as any objections thereto filed by the parties, and being fully advised in the premises;

IT IS HEREBY ORDERED that the Report and Recommendation is accepted and adopted by this Court.

IT IS FURTHER ORDERED that Defendant Paul Piper's Motion to Dismiss, filed October 11, 2006 is DENIED as MOOT.

IT IS FURTHER ORDERED that Defendants' MDOC and Kline's Motion to Dismiss, filed October 23, 2006 is DENIED as MOOT.

IT IS FURTHER ORDERED that Defendant Paul Piper's Motion for Summary

Judgment, filed January 04, 2007 is DENIED as MOOT.

IT IS FURTHER ORDERED that this case is DISMISSED.

SO ORDERED.

s/John Corbett O'Meara

United States District Judge

Date: September 21, 2007

Certificate of Service

I hereby certify that the foregoing order was served upon the parties of record on September 21, 2007, by electronic and/or U.S. mail.

s/William Barkholz

Case Manager